

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MANUEL CORDOVA,

Plaintiff,

v.

Civil No. 01-1026 WJ/KBM

PEAVEY COMPANY, a wholly owned subsidiary of
CONAGRA, INC., and POARCH BROTHERS, INC.,

Defendants.

**MEMORANDUM OPINION AND ORDER AWARDING PLAINTIFF
DEFAULT JUDGMENT AGAINST POARCH BROTHERS, INC.
ON THE ISSUE OF DAMAGES IN THE AMOUNT OF \$3,803,593.44**

THIS MATTER comes before the Court pursuant to Plaintiff's Memorandum in Support of Plaintiff's Damages [Docket No. 154] and Plaintiff's Affidavit in Support of Damages [Docket No. 155]. By Memorandum Opinion and Order filed September 12, 2003, the Court entered Default Judgment against Defendant Poarch Brothers, Inc. (PBI) on the issue of liability and ordered Plaintiff to submit to the Court his evidence on the issue of damages [Docket No. 151]. Plaintiff's Affidavit and Memorandum are responsive to the Court's Memorandum Opinion and Order. Having reviewed the evidence submitted, I find that Plaintiff is entitled to damages as follows.

BACKGROUND

The facts of this case have been exhaustively covered in previous Memoranda Opinions of this Court. For purposes of this Memorandum Opinion and Order, the Court will only briefly summarize those facts. Plaintiff Manuel Cordova was employed by SOS Staffing Services, Inc. (SOS), a temporary staffing service. On or about April 3, 2000, Plaintiff was working for Peavey

Company pursuant to a staffing agreement between Peavey Company and SOS. While working for Peavey through SOS, Plaintiff got his arm caught in a grain auger manufactured by PBI. Plaintiff lost his right arm as a result of that incident. Defendant PBI is the only remaining defendant in the case. As noted above, default judgment on the issue of liability has been entered against PBI.

LOST EARNINGS

Plaintiff has submitted evidence that, before losing his arm, he primarily held jobs involving work on oil rigs. Just prior to beginning work at Peavey Company, Plaintiff received an offer to work on an oil rig for fourteen (14) dollars an hour working at least a forty hour week. Thus, Plaintiff had an earning capacity of \$560 a week and \$29,120 per year. I find that Plaintiff's lost earning capacity over his normal working life is \$670,000.

MEDICAL EXPENSES

Plaintiff has submitted evidence of his medical bills and payments through June 2003. These total \$133,593.44. Plaintiff is entitled to an award in this amount for his medical expenses.

PAIN AND SUFFERING

Plaintiff's injury caused such pain and shock to his system that he was in constant pain and hospitalized for approximately nine days after the accident and was treated with antibiotics through a catheter in his chest for an additional three weeks after the accident. Plaintiff suffers phantom pain every day on an ongoing basis. Plaintiff has difficulty sleeping and must take medication in order to sleep. His pain may continue indefinitely. While Plaintiff has been fitted with a prosthetic arm, he is not able to use it well as it is cumbersome and makes many tasks more difficult. Plaintiff has had continued depression since the incident and continues to struggle to


understand his loss. He has lost the ability to enjoy many of his hobbies such as riding a bicycle and swimming. His current life expectancy pursuant to statutory mortality tables is 32.14 years. I find that Plaintiff is entitled to compensatory damages in the amount of three million dollars (\$3,000,000) for his pain and suffering.

RECAPITULATION

LOST EARNINGS	\$ 670,000.00
MEDICAL EXPENSES	\$ 133,593.44
<u>PAIN AND SUFFERING</u>	<u>\$ 3,000,000.00</u>
TOTAL	\$ 3,803,593.44

CONCLUSION

IT IS THEREFORE ORDERED that Plaintiff is awarded JUDGMENT against Poarch Brothers, Inc. for damages in the amount of three million, eight hundred and three thousand, five hundred ninety-three dollars and forty-four cents (\$3,803,593.44).


UNITED STATES DISTRICT JUDGE